

Application No. 10/805,175
Amendment "B" dated November 16, 2005
Reply to Office Action mailed October 4, 2005

REMARKS

Applicant expresses appreciation to the Examiner for the interview conducted with applicant's representative. The claims and specification have been amended as proposed and discussed at the interview. Thus, independent claims 1 and 9 have been amended, with corresponding amendments to dependent claims 2 – 8 and 10 – 22 respectively. New independent claims 23 and 24 have been added as proposed. A minor amendment to the specification was made to improve consistency with the drawings and claims, and is not new matter, as acknowledged at the interview.

Accordingly, by this paper claims 1 – 24 are presented for reconsideration, of which claims 1, 9, 23 and 24 are independent.

In the Office Action, claims 1 – 7 and 9 – 22 were rejected under 35 U.S.C. § 102(b) as anticipated by U. S. Patent No. 1,930,948 ("Brewer"). Claim 8 was rejected under 35 U. S. C. § 103(a) as obvious over Brewer in view of U. S. Patent No. 6,527,433 (Daniels).

As noted at the interview, Brewer discloses (see Fig. 3) a mixer used, for example, to achieve improved mixing of dough or the like. The mixer is designed so that the agitator is detachably connected to a spindle which rotates within a tube extending upwardly from the bottom of the bowl. A particular object of Brewer is "to provide a mixer having a bowl within which there is a rotary agitator rotatable about an axis other than the axis of symmetry of the bowl. In this manner the path of the rotary agitator or beater sweeps closer to certain walls of the bowl than others. These other walls which are more spaced from the path of the agitator form a locality within which the contents may temporarily collect and from which locality they may be again fed to the path of the agitator." Page 1, lines 21 – 31. This effect is asserted by Brewer to be "highly advantageous for if the path of the agitator were always equidistant from the walls of the bowl, the contents would be merely plastered against the walls of the bowl" Page 1, lines 32 -- 35.

As noted and discussed at the interview, independent claim 1 defines a goblet device configured for use with a food mixer for making "smoothies" or the like. The goblet device is comprised of a container having a longitudinal axis centered within a plane defined by an upper edge of the container, and a mixing assembly disposable within the container so as to be centered near the bottom of the container. The mixing assembly has a plurality of blades spaced away from the sides of the container and mounted about a single rotational axis, and the container and the mixing assembly are angled relative to one another in that the plane defined by the upper

Application No. 10/805,175
Amendment "B" dated November 16, 2005
Reply to Office Action mailed October 4, 2005

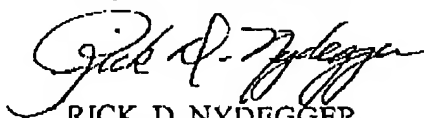
edge of the container is not perpendicular relative to the rotational axis of the mixing assembly so as to form an off-axis configuration resulting in more efficient mixing action.

Independent claim 9 is identical to claim 1, except that claim 9 is directed to a food mixer which includes, in addition to the claimed goblet device, a base with a motor capable of turning a drive mechanism that engages the mixing assembly. New independent claims 23 and 24, as noted at the interview, correspond to claims 1 and 9, respectively, but differ in that claims 23 and 24 each claim the off-axis arrangement in means-plus-function terms, e.g. "an off-axis means for creating a non-uniform vortex in material within the container when the mixing assembly operates to mix the material within the container." It is to be noted, however, that the corresponding structure for the means-plus-function limitation of claims 23 and 24 includes the container and the mixing assembly which are angled relative to one another in that the plane defined by the upper edge of the container is not perpendicular relative to the rotational axis of the mixing assembly so as to form the desired off-axis configuration that results in more efficient mixing.

Neither Brewer nor any other prior art of record¹ teach or suggest the claimed combination as noted above. As reflected by the Examiner in the interview summary, the proposal to amend the claims "to require that the container and the mixing assembly are angled relative to one another in that the plane defined by the upper edge of the mixer is not perpendicular to the rotational axis of the mixing assembly" was agreed to overcome the previously applied prior art. Accordingly, for at least the reasons noted, the claims are neither anticipated nor obvious over the prior art or record, and thus favorable reconsideration is respectfully requested.

Dated this 16th day of November, 2005.

Respectfully submitted,



RICK D. NYDEGGER
Attorney for Applicant
Registration No. 28,651
Customer No. 022913

¹ Other references of record cited by either the Examiner or by Applicant were also discussed at the interview, specifically including U. S. Patent No. 5,321,973 ("Ferrara"), U. S. Patent Application Publication No. US 2204/01596224 A1 ("Miller et al."), U. S. Patent Application Publication No. US 2005/00185334 A1 ("Nikkah") and U. S. Patent No. 4,537,332 ("Brown et al."). Since Ferrara and Miller et al. qualify as "prior" art, if at all, under 35 U.S.C. § 102(e), applicant reserves the right to challenge the status of those references, and any argument or comment made concerning them either at the interview or herein merely assumes *arguendo* that those references are qualifying "prior" art.

